

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, JANUARY 10, 2017**

The Council of the City of San José convened in Regular Session at 9:36 a.m. in the Council Chamber at City Hall.

Present: Council Members - Jones, Jimenez, Peralez, Carrasco, Davis, Nguyen, Arenas, Rocha, Khamis; Liccardo.

Absent: Council Members - Diep.

### **STRATEGIC SUPPORT SERVICES**

#### **3.2 Accept Labor Negotiations Update.**

There was no report.

### **CLOSED SESSION**

Upon motion unanimously adopted, Council recessed at 9:33 p.m. to a Closed Session in Room W133; (A) to confer with Legal Counsel pursuant to subsection (c) of Section 54956.9 of the Government Code with respect to anticipated litigation in one (1) matter; (B) to confer with Legal Counsel pursuant to subsection (b) of Section 54956.9 of the Government Code with respect to anticipated litigation (Claim Not Filed) in one (1) matter; (C) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with respect to existing litigation; (1) In re: City of San José v. City of Santa Clara.; Names Of Partie(s) Involved: City of San José, City of Santa Clara; Court: Superior Court of California, County of Santa Clara; Case No: 16-CV-298317; Amount of Money or Other Relief Sought: Damages according to proof; (2) Vietnamese-American Community of Northern California v. City, et al.; Names Of Partie(s) Involved: Vietnamese-American Community of Northern California; City of San José; City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No.: 1-08-CV-107082; (3) IFPTE Local 21 v. City of San José; Names of Partie(s) Involved: International Federation

## CLOSED SESSION (Cont'd.)

of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages According to Proof; (4) American Federation of State, County & Municipal Employees, et al. v. City; Names of Partie(s) Involved: American Federation of State, County & Municipal Employees, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof; (5) OE#3 v. City of San José; Names Of Partie(s) Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employees Relations Board; Case No.: SF-CE-900-M; (6) ABMEI v. City, et al.; Names of Partie(s) Involved: Association of Building, Mechanical and Electrical Inspectors, City of San José; Court: State of CA Public Employment Relations Board; Case No.: UPC SF CE 1358 M; Amount of Money or Other Relief Sought: Damages According to Proof; (7) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; H040979; H042074; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (8) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (9) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: City of San José, John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, Debra Figone in her official capacity as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; H040979; H042074; Amount of Money or Other Relief Sought: Challenge to Measure B; (12) People of the State of California, et al. v. City of San José, et al.; Names of Partie(s) Involved: The People of the State of California ex rel. San José Police Officers Association, City of San José, City Council of San José; Court: Superior Court of California, County of Santa Clara; Case No: 1-13-CV-245503; Amount

## CLOSED SESSION (Cont'd.)

of Money or Other Relief Sought: Verified Complaint In Quo Warranto; (13) Peter Constant, Steven Haug and Silicon Valley Taxpayers' Association v. Superior Court; Names Of Partie(s) Involved: Peter Constant, Steven Haug, Silicon Valley Taxpayers' Association, a California non-profit Corporation, Proposed Intervenors, Appellants and Petitioners, Superior Court of California, County of Santa Clara, Respondent, the People of the State of California ex. Rel. San José Police Officers Association, Plaintiff, Respondent and Real Party in Interest, City of San José, City Council of San José, Defendants, Respondents and Real Parties in Interest; Court: Sixth District Court of Appeal; Case No.: H043540; Amount of Money or Other Relief Sought: Petition for Writ of Mandate or, In the Alternative, Supersedeas, or Other Appropriate Relief; (14) San José Retired Employees Association, et al. v. City of San José, et al; Names of Partie(s) Involved: San José Retired Employees Association, Kirk Pennington, David Armstrong, Donna Jewett, Dorothy McGinley, City of San José, the Board of Administration for the Federated City Employees Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-14-CV-268085; Amount of Money or Other Relief Sought: Change to City medical plan; (D) to Confer with Labor Negotiator Pursuant to Government Code Section 54957.6: City Negotiator: Jennifer Schembri, Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO; (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW; (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc.; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Union of Operating Engineers, Local No. 3. (10) San José Police Officers' Association (SJPOA); Nature of Negotiations: Salaries, Hours, Working Conditions, etc.; Name of

## **CLOSED SESSION (Cont'd.)**

Existing Wages Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:45 p.m. and reconvened to Regular Session at 1:30 p.m. in the Council Chambers.

Present: Councilmembers - Jones, Jimenez, Peralez, Carrasco, Davis, Nguyen, Arenas, Rocha, Khamis; Liccardo.

Absent: Councilmembers - Diep. (Excused)

## **INVOCATION**

Reverend Shernell Edney, First Congregational Church of San José, provided the Invocation.

## **PLEDGE OF ALLEGIANCE**

Mayor Sam Liccardo led the Pledge of Allegiance.

## **ORDERS OF THE DAY**

Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Raul Peralez and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 4.1 dropped and Item 8.2, Item 11.1(a)(b) and Item 11.4 deferred to January 24, 2017.

## **1. CEREMONIAL ITEMS**

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- 1.1 Administer Oaths of Office for newly elected Council Members. (City Clerk)  
**The Oaths of Office were administered for Council Member Johnny Khamis, Council Member Sergio Jimenez, Council Member Dev Davis and Council Member Sylvia Arenas.**

## **2. CONSENT CALENDAR**

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Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-1. Absent: Diep.)

## **2.1 Approval of City Council Minutes.**

There were none.

## **2.2 Final Adoption of Ordinances.**

- (a) ORD. NO. 29843 – An ordinance of the City of San José amending Section 23.04.020 of Part 1 of Chapter 23.04 of Title 23 of the San José Municipal Code to increase the number of attached signs allowed for large ground-level single tenant spaces located on large shopping center sites, including specific regulations related to the number, size, and location of these additional attached signs, and making other nonsubstantive, ministerial, technical, or typographical changes to Chapter 23.04 of the Sign Code. CEQA: Negative Declaration, File No. PP13-067, and Addenda thereto File Nos: PP13-083, PP14-007 and PP16-083. (Planning, Building, and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29843 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29843 was adopted. (10-1. Absent: Diep.)

- (b) ORD. NO. 29847 – An ordinance of the City of San José amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the San José Municipal Code to expand the suspension program for the collection of a portion of construction taxes on downtown high rise developments. CEQA: Not a Project, File No. PP10-067(a), Non-Project Specific Funding Mechanism, Increase or Adjustments to Fees, Rates, and Fares. (Mayor/Peralez)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29847 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29847 was adopted. (10-1. Absent: Diep.)

- (c) ORD. NO. 29848 – An ordinance of the City of San José amending Chapter 4.76 of Title 4 of the San José Municipal Code adding a new Section 4.76.290.5 to extend the deadline from July 1, 2017 to December 15, 2017 for residential landlords of 1 or 2 units to apply for a business tax certificate and pay the business tax owed as of July 1, 2017 without incurring interest or penalties. CEQA: Exempt, CEQA Guidelines Section 15378(b)(4). (Finance/City Manager)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29848 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29848 was adopted. (10-1. Absent: Diep.)

## **2. CONSENT CALENDAR**

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### **2.2 Final Adoption of Ordinances (Cont'd.)**

- (d) ORD. NO. 29850 – An ordinance of the City of San José amending Part 1 of Chapter 23.02 and Parts 1 and 2 of Chapter 23.04 of Title 23 of the San José Municipal Code to allow and regulate Supergraphic signs in both the Downtown Sign Zone and the North San José signage area, including specific regulations related to the number, size, location and duration of Supergraphic signs, and to amend and add definitions related to Supergraphic signs and make other nonsubstantive, ministerial, technical, or typographical changes to Chapter 23.04 of the San José Municipal Code. CEQA: Negative Declaration, File No. PP13-067, and Addenda thereto File Nos. PP13-083, PP14-007, PP16-083 and PP16-131. (Planning, Building, and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29850 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29850 was adopted. (10-1. Absent: Diep.)

- (e) ORD. NO. 29854 – An ordinance of the City of San José rezoning certain real property of approximately 39.9 gross acres situated on the southeasterly corner of North First Street and Liberty Street (4701 North First Street and 1561, 1537 Liberty Street) from the CN Commercial Neighborhood and R-M Multi-Family Residence Zoning Districts to the CIC(PD) Planned Development Zoning District. CEQA: Mitigated Negative Declaration for the “Topgolf at Terra Project”. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29854 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29854 was adopted. (10-1. Absent: Diep.)

- (f) ORD. NO. 29853 – An ordinance of the City San José granting a Commercial Solid Waste and Recyclables Collection Franchise to Uriel Del Toro DBA Del Toro Trucking. CEQA: Exempt, File No. PP08-228. (Environmental Services)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29853 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29853 was adopted. (10-1. Absent: Diep.)

## **2. CONSENT CALENDAR**

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### **2.2 Final Adoption of Ordinances (Cont'd.)**

- (g) ORD. NO. 29855 – An ordinance of the City of San José rezoning certain real property of approximately 0.85 acre, situated at the northwest corner of Almaden Expressway and Redmond Avenue (16455 Almaden Expressway), from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of the Title of Ordinance No. 29855 executed on December 21, 2016, submitted by the City Clerk.

Action: Ordinance No. 29855 was adopted. (10-1. Absent: Diep.)

### **2.3 Approval of Council Committee Minutes.**

- (a) Community and Economic Development Committee minutes of November 28, 2016. (Khamis)
- (b) Transportation and Environment Committee minutes of December 5, 2016. (Kalra)
- (c) Neighborhood Services and Education Committee minutes of December 8, 2016. (Rocha)

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Documents Filed: (1) Community and Economic Development Committee minutes of November 28, 2016; (2) Transportation and Environment Committee minutes of December 5, 2016; (c) Neighborhood Services and Education Committee minutes of December 8, 2016.

Action: The Council Committee Minutes were accepted. (10-1. Absent: Diep.)

### **2.4 Mayor and Council Excused Absence Requests.**

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (b) Request for an excused absence for Mayor Liccardo from the Regular Meeting of the Rules and Open Government Committee on January 18, 2017 due to Authorized City Business: U.S. Conference of Mayors in Washington, D.C.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)

Documents Filed: Memorandum from Mayor Sam Liccardo dated January 5, 2017, requesting an excused absence due to authorized City business.

Action: The noticing requirement was waived, and the absence was excused.

## **2. CONSENT CALENDAR**

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### **2.5 City Council Travel Reports.**

No Report.

### **2.6 Report from the Council Liaison to the Retirement Boards.**

No Report.

### **2.7 Approve Master Agreements with IBI Group and Group 4 Architecture Research + Planning, Inc. for architectural design and master planning services from the date of execution through December 31, 2020 in an amount not to exceed \$1,000,000 for each Agreement. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Public Works)**

Documents Filed: City Council Action Request from Director of Public Works Barry Ng, dated January 10, 2017, recommending approval of Master Agreements.

Action: The Master Agreements with IBI Group and Group 4 Architecture Research + Planning, Inc. for architectural design and master planning services from the date of execution through December 31, 2020 with related contingency was approved. (10-1. Absent: Diep.)

### **2.8 Adopt a resolution authorizing the City Attorney to negotiate and execute an agreement with the Santa Clara County Housing Authority and to reimburse the Housing Authority in the amount of \$355,890 for a portion of the legal fees associated with a breach of contract claim filed by Housing Authority against HUD, which resulted in a \$36 million judgment award to the City Housing Authority by the United States Court of Claims. CEQA: Not a Project; File No. PP10-066(e); Services that involve no physical changes to the environment. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle dated December 16, 2016, recommending adoption of a resolution.

Action: Resolution No. 78049, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with the Housing Authority of the County of Santa Clara Santa for Reimbursement of a Portion of the Legal Fees Associated with a Breach of Contract Claim Against U.S. Department of Housing and Urban Development", was adopted. (10-1. Absent: Diep.)

### **2.9 Adopt a resolution authorizing the City Attorney to:**

- (a) Negotiate and execute a third amendment to the agreement with West Publishing Corporation dba Thomson Reuters Elite for the Prolaw Legal Practice Management Software System to renew annual maintenance support services.**
- (b) Negotiate and execute any amendment for supplemental services and to renew annual maintenance support, subject to the annual appropriation of funds.**



## **2. CONSENT CALENDAR**

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### **2.9 (Cont'd.)**

**CEQA: Not a Project; File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney)**

Documents Filed: Memorandum from City Attorney Richard Doyle dated December 19, 2016, recommending adoption of a resolution.

Action: Resolution No. 78050, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute a Third Amendment to the Agreement with West Publishing Corporation dba Thomson Reuters Elite for the Prolaw Legal Practice Management Software System to Renew Annual Maintenance Support Services, and to Negotiate and Execute any Amendment for Supplemental Services and to Renew Annual Maintenance Support Subject to the Annual Appropriation of Funds", was adopted. (10-1. Absent: Diep.)

### **2.10 Approve the following Board and Commission Appointments:**

**(a) Arts Commission:**

- (1) District 2 Seat: Appoint Charlie McCollum to a term expiring 6/30/18;**

**(b) Council Appointment Advisory Commission:**

- (1) District 2 Seat: Appoint Claudia Clark to a term expiring 12/31/18;**  
**(2) District 7 Seat: Appoint Karen Fox to a term expiring 12/31/20;**  
**(3) District 9 Seat: Appoint Mary Cheryl B. Gloner to a term expiring 12/31/20;**

**(c) Human Services Commission:**

- (1) Citywide Seat: Appoint Angie Lopez to a term expiring 12/31/20;**  
**(2) District 7 Seat: Appoint Kimberly Carvallison to a term expiring 12/31/20;**  
**(3) District 9 Seat: Appoint Tayesa Knight to a term expiring 12/31/20;**

**(d) Youth Commission:**

- (1) District 7 Seat: Appoint Sarah Dang to a term expiring 5/31/17.**

**CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 21, 2016, recommending approval of Board and Commission Appointments.

Action: The Board and Commission Appointments were approved. (10-1. Absent: Diep.)

### **2.11 Authorize travel for City Manager Norberto L. Dueñas to Miami, Florida on January 18 – 21, 2017 to participate in the Large Cities Executive Forum. Source of Funds: City Manager's Non Personal Services Appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Manager)**

## **2. CONSENT CALENDAR**

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### **2.11 (Cont'd.)**

Documents Filed: Memorandum from City Manager Norberto Dueñas, dated December 15, 2016, requesting travel authorization.

Action: Travel for City Manager Norberto L. Dueñas to Miami, Florida on January 18 – 21, 2017 to participate in the Large Cities Executive Forum was approved. (10-1. Absent: Diep.)

### **2.12 As recommended by the Rules and Open Government Committee on December 14, 2016:**

- (a) Retroactively approve the Iola Williams Holiday Party on Saturday, December 3, 2016 at SevenTrees Community Center as City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Retroactively approve the Tully Library Holiday Program on Saturday, December 10, 2016 at Tully Branch Library as City Council sponsored Special Event and approve the expenditure of funds.**
- (c) Retroactively approve the Holiday Fun at SevenTrees Library on Saturday, December 17, 2016 at the SevenTrees Branch Library as City Council sponsored Special Event and approve the expenditure of funds.**
- (d) Approve the SevenTrees Lunar New Year Celebration on Saturday, January 14, 2017 at SevenTrees Community Center and Tully Lunar New Year Celebration on Saturday, February 4, 2017 at Tully Community Room as City Council sponsored Special Events and approve the expenditure of funds.**
- (e) Approve and accept donations from various individuals, businesses or community groups to support the events.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 19, 2016, recommending approval of a Community Event.

Action: The Community Events and expenditure of funds were approved. (10-1. Absent: Diep.)

### **2.13 As recommended by the Rules and Open Government Committee on December 14, 2016:**

- (a) Approve the African American History Month Flag Raising Ceremony and Reception scheduled on February 3, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the events.**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 19, 2016, recommending approval of a Community Event.

Action: The Flag Raising and approval of acceptance of donations was approved. (10-1. Absent: Diep.)

## **2. CONSENT CALENDAR**

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### **2.14 2016 – 2017 Council Appointment(s).**

- (a) **Apprise the Council of the Mayor's Appointments for each of the standing committees, as described in Exhibit "A" of this Memorandum.**
- (b) **Appoint the following Council Members to each of the committees and assignments, as described in Exhibit "B" of this Memorandum.**

**CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Mayor)**

Documents Filed: Replacement memorandum from Mayor Sam Liccardo, dated January 10, 2017, recommending reassignment of appointments.

Mayor Sam Liccardo pulled Item 2.14 to provide an overview of his recommendations.

Action: Upon motion by Councilmember Tam Nguyen, seconded by Councilmember Donald Rocha and carried unanimously, reassignment of the Boards and Commission appointments as indicated in the memorandum of January 10, 2017, was approved. (10-1. Absent: Diep.)

### **2.15 Actions Related to Council Member Diep's Travel to Chicago, IL.**

- (a) Approve travel by Council Member Diep to Chicago, IL from January 9, 2017 to January 11, 2017 for President Obama's Farewell Address. Source of Funds: Personal funds.
- (b) Request for an excused absence for Council Member Diep from the Regular Meeting of the City Council on January 10, 2017.

**CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Diep)**

Documents Filed: Memorandum from Councilmember Lan Diep, dated January 14, 2017, requesting authorization to travel and for an excused absence from the January 10, 2017 Council meeting.

Action: Authorization to travel and the excused absence was accepted. (10-1. Absent: Diep.)

### **2.16 Adopt the following 2016-2017 Appropriation Ordinance amendments in the General Fund:**

- (a) **Increase Council District #02 appropriation by \$440,309;**
- (b) **Decrease Council District #02 (January – June) appropriation by \$440,309;**
- (c) **Increase Council District #04 appropriation by \$456,960;**
- (d) **Decrease Council District #04 (January – June) appropriation by \$456,960;**
- (e) **Increase Council District #06 appropriation by \$407,928;**
- (f) **Decrease Council District #06 (January – June) appropriation by \$407,928;**
- (g) **Increase Council District #08 appropriation by \$460,891;**
- (h) **Decrease Council District #08 (January – June) appropriation by \$460,891.**

**CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Clerk/City Manager)**

## **2.16 (Cont'd.)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC and Senior Deputy City Manager Jennifer Maguire, dated January 3, 2017, recommending adoption of appropriation ordinance amendments.

Action: Ordinance No. 29856, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 To Appropriate Moneys in the General Fund for Council District #02, #04, #06, And #08; And Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (10-1. Absent: Diep.)

### **2.17 As recommended by the Rules and Open Government Committee on January 4, 2017:**

- (a) Approve the Celebrate Cambrian Festival scheduled on August 27, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Rocha)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 6, 2017, recommending approval of a Community Event.

Action: The Celebrate Cambrian Festival scheduled on August 27, 2017 as a City Council sponsored Special Event, approving the expenditure of funds and approving acceptance of donations from various individuals, businesses or community groups to support the event, was approved. (10-1. Absent: Diep.)

### **2.18 As recommended by the Rules and Open Government Committee on January 4, 2017:**

- (a) Approve Lan Diep’s Inauguration scheduled on January 14, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

**CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Diep)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 6, 2017, recommending approval of a City Council sponsored Special Event.

Action: Lan Diep’s Inauguration scheduled on January 14, 2017 as a City Council sponsored Special Event, approval of the expenditure of funds and acceptance of donations from various individuals, businesses or community groups to support the event, was approved. (10-1. Absent: Diep.)

### **2.19 As recommended by the Rules and Open Government Committee on January 4, 2017, adopt a position of support for SB 2 (Atkins) – Building Homes and Jobs Act so that the City’s Legislative Advocates in Sacramento can indicate a support position for SB 2 (Atkins). CEQA: Not a Project, File No. PP10-069(d), City Administrative Activities, Legislative Position. (Housing)**

## **2.19 (Cont'd.)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 6, 2017, recommending approval of a Rules and Open Government Committee recommendation.

Action: A position of support for SB2(Atkins) – Building Homes and Jobs Act was adopted. (10-1. Absent: Diep.)

## **2.20 As recommended by the Rules and Open Government Committee on January 4, 2017, adopt a position of support for SB 3 (Beall) – Affordable Housing Bond Act of 2018 so that the City’s Legislative Advocates in Sacramento can indicate a support position for SB 3 (Beall). CEQA: Not a Project, File No. PP10-069(d), City Administrative Activities, Legislative Position. (Housing)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated January 6, 2017, recommending approval of a Rules and Open Government Committee recommendation.

Action: A position of support for SB 3 (Beall) – Affordable Housing Bond Act of 2018 was adopted. (10-1. Absent: Diep.)

## **END OF CONSENT CALENDAR**

## **3. STRATEGIC SUPPORT SERVICES**

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### **3.1 Report of the City Manager, Norberto Dueñas (Verbal Report). City Manager Norberto Dueñas welcomed the new Council Members and offered updates on the City’s preparations for the impending rainstorms.**

### **3.3 Accept the Annual Report on City Services FY 2015-2016. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Annual reports that involve no approvals of City actions. (City Auditor)**

Documents Filed: Report from City Auditor Sharon Erickson, dated December 15, 2017, entitled “Annual Report on City Services 2015-16”.

City Auditor Sharon Erickson provided the report and responded to questions. Extensive Council discussion ensued.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, the Annual Report on City Services FY 2015-2016 was approved. (10-1. Absent: Diep.)

**3.4 Appoint Lawrence Jay Castellano as the Retiree Member to the Board of Administration for Federated City Employees Retirement System for the term December 1, 2016 to November 30, 2020. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Clerk)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 21, 2016, recommending a retiree member appointment to the Board of Administration for the Federated City Employees Retirement System.

Public Comments: Kathy Imamura and Brad Imamura asserted that the election results should be the deciding factor in this election and urged Mr. Imamura's appointment to the Board of Administration for the Federated City Employees Retirement System.

City Attorney Richard Doyle offered clarification to the potential for a lawsuit in this matter, spoke to the interpretation of the Municipal Code and responded to questions from Mayor Sam Liccardo regarding the issue of a conflict of interest.

Motion: Councilmember Raul Peralez moved approval of the staff recommendation with direction to staff to review the election process for better clarity. Vice Mayor Magdalena Carrasco seconded the motion.

Brad Imamura responded to questions from Council.

Substitute Motion: Councilmember Tam Nguyen moved a substitute motion to appoint Brad Imamura to the Board. Councilmember Johnny Khamis seconded the motion.

Council followed a line of questioning regarding urgency of this appointment, inquiring if deferral was a viable option. Director of Retirement Services Roberto Peña asked just that the position be filled within a reasonable amount of time.

Councilmember Donald Rocha requested an amendment to the substitute motion, proposing a deferral of action on this item once the Municipal Code has been modified. Councilmember Tam Nguyen and Councilmember Johnny Khamis agreed to the amendment to the substitute motion.

Action: On a call for the question, the appointment to the Board of Administration for the Federated City Employees Retirement System was deferred. Staff was directed to work with the City Attorney to pursue changing the Municipal Code and return to the Rules and Open Government Committee with the recommendations. (10-1. Absent: Diep.)

**3.5 As recommended by the Rules and Open Government Committee on December 14, 2016:**

- (a) Direct the City Manager to prioritize recommendations #4, #6, #8, #13, and #14 of the Welcoming San José Plan to address the immediate needs that have been identified from the arrival of a new Federal Administration and to coordinate efforts with the Santa Clara County Office of Immigrant Relations.**
- (b) Direct the City Attorney's Office to coordinate with the County's Counsel to coordinate legal advocacy efforts with other municipalities nationwide.**

**CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Mayor/Peralez/Carrasco/Jimenez)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Peralez, Jimenez and Arenas, dated January 6, 2017. (2) Memorandum from City Clerk Toni J. Taber, CMC, dated December 19, 2016, providing recommendations from the Rules and Open Government Committee.

Public Comments: Offering support to coordinating efforts with the Santa Clara County Office of Immigrant Relations and legal advocacy efforts nationwide, were: John Reynaldo, Catholic Charities/Diocese of San José; Priya Murthy, SIREN; Mike Casas, Asian Law Alliance; Mathew Reed, Diana Salazar, Mariela Garcia and Eunice Hernandez, Sacred Heart Community Services; and Rebecca Armendariz, SEIU-USWW.

Motion: Councilmember Raul Peralez moved approval of the memorandum he co-signed with Mayor Sam Liccardo, Vice Mayor Magdalena Carrasco and Councilmembers Jimenez and Arenas, dated January 6, 2017. Vice Mayor Magdalena Carrasco seconded the motion.

Councilmember Dev Davis expressed misgivings about duplicating the County's efforts.

Council discussion ensued.

Action: On a call for the question, the motion carried, and the memorandum from Mayor Sam Liccardo, Council Member Raul Peralez, Council Member Sergio Jimenez, Council Member Magdalena Carrasco and Council Member Sylvia Arenas, dated January 6, 2017, was approved:

- (1) Directing the City Manager and City Attorney to:
  - (a) Identify one-time funding through the mid-year budget process such that, if Council approves that funding in February, Staff can begin implementation of a coordinated response.
  - (b) Return to Council with a comprehensive strategy that engages immigrant serving organizations, legal assistance organizations, neighborhood associations, school districts, the County Office of Immigrant Relations, the Office of the County Counsel, private law firms, the business community, ethnic media and foundation partners to explore, among other potential remedies:

### 3.5 (Cont'd.)

- (1) (b) Communication: Establish immediate as well as long term strategies for a coordinated communications campaign, easily accessible in multiple languages including but not limited to:
- (1) Leveraging existing resources such as 211, NALEO and other hotlines that provide referrals and information to immigrants seeking immediate assistance.
  - (2) Utilize text messaging, social media and other low cost technologies to educate, inform and engage the community.
  - (3) Coordination of “safe spaces” in City owned facilities such as libraries and community centers to host drop-in pro bono legal clinics, provide educational materials and other critical information.
  - (4) Raising awareness of “notario publico” fraud and availability of all resources and remedies for victims.

Capacity Building and Streamlining Legal Defense for Families and Youth: Work with school districts through the comprehensive communications campaign to help families develop safety plans and streamline the dissemination of critical information including “Know Your Rights” classes, potential remedies available to families and unaccompanied youths such as U-visa, VAWA, Special Immigrant Juvenile Status or asylum. Identify means to assist clients to obtain the necessary findings to successfully apply for lawful permanent residence or additional protections through legal support or increased access to translation in multiple languages.

Faith Based Organization Support: Explore amending the City’s ordinances relating to shelters hosted by faith based communities (cf. SJMC Section 20.80.1600 et. seq. (Temporary Shelter in Church) to ensure organizations that desire to provide sanctuary can readily do so, including an analysis of protections afforded to faith organizations from immigrant enforcement.

Welcoming San José Plan: Prioritize aspects of Welcoming San José Plan that directly affect immigrant communities and their interactions with City services into one year outcomes:

- (1) Goal #4: Identify linguistic and cultural barriers to inclusion in City services for immigrant residents and develop/implement a plan to mitigate these barriers.
- (2) Goal #6: Expand access to information and resources about the naturalization and voter registration process.
- (3) Goal #8: Expand opportunities for linguistic integration and education for children and adults.
- (4) Goal #13: Facilitate stronger relationships between public safety departments and San José’s immigrant residents.
- (5) Goal #14: Develop access points for immigrant residents to gain information and services that will contribute to greater community, family and personal health.

**(9-1-1. Noes: Davis. Absent: Diep.)**



- 3.6 As recommended by the Rules and Open Government Committee on December 14, 2016, direct the City Attorney and City Manager to move forward with the implementation of Measure E and the public information efforts including the following:**

- (a) Provide analysis of the “right to cure” which includes how employers can cure and how much time is provided to do so.**
- (b) Provide analysis and define the terms in items #3, #4, #5 and #6 of Council Member Khamis’ memorandum dated December 8, 2016.**

**CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Khamis)**

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated December 19, 2016, providing recommendations from the Rules and Open Government Committee on December 14, 2016.

Action: This item was dropped.

- 3.7 As recommended by the Rules and Open Government Committee on January 4, 2017, accept the 2017 Legislative Guiding Principles; the Top Legislative Priorities; and overall Priorities and Advocacy Issues for the first year of the two-year Legislative Session in Sacramento and the 115<sup>th</sup> Congress, so that the City’s lobbyists can advocate Council direction in Sacramento and Washington, D.C. CEQA: Not a Project, File No. PP10-069(d), City Administrative Activities, Legislative Position. (City Manager)**

Documents Filed: (1) Memorandum from Councilmember Johnny Khamis, dated January 10, 2017, offering support to the staff recommendations with modifications. (2) Memorandum from City Clerk Toni J. Taber, dated January 26, 2017, transmitting the recommendations of the Rules and Open Government Committee.

Director, Intergovernmental Relations, Betsy Shotwell, provided a report on Legislative Guiding Principles, Top Legislative Priorities and overall Priorities and Advocacy Issues.

Councilmember Johnny Khamis moved approval of staff recommendations including his memorandum dated January 10, 2017. Councilmember Tam Nguyen seconded the motion.

Mayor Sam Liccardo highlighted the importance of the issue of CEQA reform as included in page 2 of the staff report.

Substitute Motion: Councilmember Raul Peralez moved approval of staffs’ recommendations, including item #1 from the memorandum from Councilmember Johnny Khamis dated January 10, 2017. Councilmember Donald Rocha seconded the motion.

Action: On a call for the motion, the substitute motion carried, the staff report was accepted, with direction to: add California Environmental Quality Act (CEQA) Reform as a bullet point to the “State Legislative Priorities” section of the two-page summary titled: “City of San José’s Top Legislative Priorities for 2017”, included as part of Attachment A of the Staff Report. (10-1. Absent: Diep.)

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.1 Public Hearing on the Vacation of a Sidewalk Easement at 1561 and 1564 Rosecrest Terrace near Dana Avenue.**

**Conduct a Public Hearing and adopt a resolution:**

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the vacation of a sidewalk easement (“Easement”) at 1561 and 1564 Rosecrest Terrace near Dana Avenue.**
- (b) Vacating the 238.7 square foot Easement, which is unnecessary for present or prospective public use.**
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**

**CEQA: Exempt, File No. PP16-126. Council District 6. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Barry Ng, dated December 14, 2016, recommending adoption of a resolution. (2) Joint supplemental memorandum from Director of Public Works Barry Ng and Director, Planning, Building and Code Enforcement Harry Freitas, dated January 8, 2017, recommending to drop and renote Item 4.1. (3) Email correspondence from Greg Ripa, Resident of District 6, offering opposition to vacating the easement.

Action: Dropped per Orders of the Day.

### **4.2 Summary Vacation of a Portion of Berryessa Road, East of Mercado Way.**

**Adopt a resolution:**

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of approximately 783 square feet of right-of-way along Berryessa Road, east of Mercado Way.**
- (b) Summarily vacating the subject portion of Berryessa Road, which is excess right-of-way and no longer necessary for public purposes.**
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.**

**CEQA: San José Flea Market General Plan Amendment and Planned Development Rezoning EIR (Resolution No. 73956). Council District 4. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated December 14, 2016, recommending adoption of a resolution.

Public Comments: Mayor Sam Liccardo opened the public hearing. There was no public testimony from the floor. Mayor Sam Liccardo closed the public hearing.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, Resolution No. 78051, entitled: “A Resolution of the Council of the City of San José Summarily Vacating a Portion of Berryessa Road”, was adopted. (10-1. Absent: Diep.)

- 4.3 Report on bids and award of construction contract for the 8038 –Family Camp Workshop Replacement Project to the low bidder, Southwest Property Management and Construction, Inc., for the base bid amount of \$178,928 and approval of a contingency in the amount of \$17,892. CEQA: Exempt, File No. PP14-026. Council District 8. (Public Works/Parks, Recreation and Neighborhood Services)**

Documents Filed: Joint memorandum from Director of Public Works Barry Ng and Director of Parks, Recreation and Neighborhood Services Angel Rios, Jr., dated December 14, 2016, recommending approval of a report on bids and award of a construction contract.

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, the report on bids and award of construction contract for the 8038 –Family Camp Workshop Replacement Project to the low bidder, Southwest Property Management and Construction, Inc., for the base bid amount of \$178,928 and related contingency, was approved. (10-1. Absent: Diep.)

## **5. NEIGHBORHOOD SERVICES**

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## **6. TRANSPORTATION & AVIATION SERVICES**

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## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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- 8.1 (a) Approve Silicon Valley Community Foundation Grant Agreement granting the City of San José \$181,700 for the Independent Police Auditor Community Trust in Policing Forum and Strengthening Community Relations Project.**
- (b) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) Establish a City-wide Expense appropriation to the Independent Police Auditor's Office for the Silicon Valley Community Foundation Strengthening Community Relations Project in the amount of \$181,700.**
  - (2) Increase the revenue estimate for Other Revenue by \$181,700.**

**CEQA: Not a Project, File No. PP10-066, Agreements and Contracts for Services that involve no physical changes to the environment. (Independent Police Auditor/City Manager)**

Documents Filed: Memorandum from Independent Police Auditor Walter W. Katz and Senior Deputy City Manager Jennifer Maguire, dated January 3, 2017, recommending approval of a grant agreement and adoption of an appropriation ordinance and a funding sources resolution amendment.

## 8.1 (Cont'd.)

Action: Upon motion by Councilmember Donald Rocha, seconded by Councilmember Tam Nguyen and carried unanimously, Ordinance No. 29857, entitled “An Ordinance of the City of San José Amending Ordinance No. 29762 to Appropriate Moneys in the General Fund for the Silicon Valley Community Foundation Strengthening Community Relations Project; And Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 78052, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77796 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2016-2017 to Adjust Revenues in the General Fund”, were adopted. (10-1. Absent: Diep.)

## 8.2 **Accept the staff report regarding Automated License Plate Readers and invite public comment in concurrence with California Civil Code Section 1798.90.55. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Staff Reports that involve no approvals of City actions. (Police)**

Documents Filed: Memorandum from Chief of Police Edgardo Garcia, dated December 14, 2016, recommending acceptance of the staff report.

Action: Deferred to January 24, 2017 per Orders of the Day.

## OPEN FORUM

- (1) Chris Moylan, Assistant Director, representing congressional representative Ro Khanna, offered his assistance to the Mayor and the Council Members.
- (2) Sean Mulligan presented interesting highlights concerning naming the Berryessa Bart Station.

Mayor Sam Liccardo noted that he would speak with Mr. Mulligan at the conclusion of the afternoon meeting.

## ADJOURNMENT

Mayor Sam Liccardo adjourned the Afternoon Council Session at 5:28 p.m.

## 10. GENERAL PLAN PUBLIC HEARINGS

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**No General Plan Public Hearings.**

## **11. PUBLIC HEARINGS**

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### **11.1 Public Hearings on Consent Calendar.**

- (a) **Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 3.6-gross acre site, located at 1737 North 1<sup>st</sup> Street from the CO(PD) Planned Development and IP Industrial Park Zoning Districts to the CP Commercial Pedestrian Zoning District (Pacific Resources First American, LLC, Owner). CEQA: Determination of Consistency with Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR for the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617). Planning, Building and Code Enforcement Director recommended approval. (Planning, Building and Code Enforcement)**  
**C16-039 – Council District 3**

Action: Deferred to January 24, 2017 per Orders of the Day.

- (b) **Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 2.0-gross acre site, located at 320 Race Street from the LI Light Industrial Zoning District to the CIC Combined/Industrial Commercial Zoning District (Stanley A. Cotton, Trustee, Owner). CEQA: Determination of Consistency with Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Supplemental EIR for the Envision San José 2040 General Plan (Resolution No. 77617). Planning, Building and Code Enforcement Director recommended approval. (Planning, Building and Code Enforcement)**  
**C16-048 – Council District 6**

Action: Deferred to January 24, 2017 per Orders of the Day.

### **END OF CONSENT CALENDAR**

### **11.2 Planned Development Conforming Rezoning and Planned Development Permit and Vesting Tentative Map for Real Property Located at 641 N. Capitol Avenue.**

- (a) **Adopt a resolution adopting the 641 North Capitol Avenue Mixed-Use Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.**
- (b) **Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 10.6 gross acre site, at the southwest corner of North Capitol Avenue and Gimelli Way (641 N. Capitol Avenue), within the North Capitol/McKee Road Urban Village, from the RM Multiple Residence Zoning District to the CP(PD) Planned Development Zoning District to allow two development scenarios: (1) up to 188 residential units, a minimum of**

**11.2 Planned Development Conforming Rezoning and Planned Development Permit and Vesting Tentative Map for Real Property Located at 641 N. Capitol Avenue (Cont'd.)**

- (b) 108,000 square feet of commercial space, and an approximately 43,583 square feet publicly accessible park or (2) should the North Capitol/McKee Road Urban Village be amended by Council to reduce the amount of required jobs in the Urban Village for which the site is located then allow up to 493 residential units, a minimum of 38,360 square feet of commercial space, and an approximately 43,583 square feet of publicly accessible park (Krass Deborah Trustee, Owner).**
- (c) Adopt a resolution approving Vesting Tentative Map PT16-035, subject to conditions, to subdivide one parcel into six parcels and to resubdivide three parcels to create up to 188 residential condominium units and allow commercial space on the remaining three parcels.**
- (d) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow the construction of up to 188 residential units and a minimum of 108,000 square feet of commercial space.**

**CEQA: 641 North Capitol Avenue Mixed-Use Project Mitigated Negative Declaration. Planning Commission recommends approval (6-0-01) (Commissioner Bit-Badal absent). (Planning, Building and Code Enforcement)  
PDC16-002, PD16-025, & PT16-035 – Council District 5**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Vice Mayor Magdalena Carrasco, dated January 6, 2017, approving the Planning Commission recommendations with modifications. (2) Memorandum from Planning Commission Secretary, Harry Freitas, dated December 19, 2016, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File Numbers PDC16-002, PD16-025 and PT16-035. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated January 6, 2017, offering additional information on the projects. (4) Proof of Publication of Notice of Public Hearing, executed on November 4, 2016, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Liz Ruiz offered positive recommendations for City Ventures. Owner/Applicant representative of City Ventures, Samantha Hauser provided merits of the signature project.

Mayor Sam Liccardo closed the public hearing.

Chief Executive Officer, Homebuilding, Phil Kerr responded to questions from Council.

Director, Planning, Building and Code Enforcement Harry Freitas offered a brief presentation. Division Manager and Deputy Director of Public Works, Michael Liw, presented and responded to questions.

**11.2 Planned Development Conforming Rezoning and Planned Development Permit and Vesting Tentative Map for Real Property Located at 641 N. Capitol Avenue (Cont'd.)**

The Director of Planning, Building and Code Enforcement, Harry Freitas, affirmed that the language in the document will be structured to ensure as strongly as possible that all the commercial will be built, the commercial in the front is guaranteed and the commercial in the rear is strongly protected.

He further corrected the record to clarify that although this project is being built as a signature project it does not automatically trigger that urban village to the current horizon.

Motion: Vice Mayor Magdalena Carrasco moved approval of the recommendations, including the memorandum she cosigned with Mayor Sam Liccardo dated January 6, 2017, and with changes as indicated below in "Action". Councilmember Raul Perez seconded the motion.

Action: On a call for the question, the motion carried unanimously, and the memorandum from Mayor Sam Liccardo and Council Member Magdalena Carrasco, dated January 6, 2017, was approved, approving the recommendations outlined in the Planning Commission memorandum to the City Council dated December 19, 2016, with the following modifications to support the public benefit findings for this proposed Signature Project:

- (a) Adopt an ordinance rezoning the property at 641 North Capitol Avenue with the following Development Standards:
  - (1) Allow up to 493 residential units, a minimum of ~~50,000~~ 108,000 square feet of commercial/retail space (rather than the Staff recommended 38,360 square feet of commercial/retail space) and approximately 43,583 square feet of publicly accessible park space.
  - (2) Include Staff's recommended Phasing Plan requiring the Gear building and public amenities to commence in the first phase and be completed before the end of the second phase.
  - (3) Include Planning Commission's recommended Development Standard requiring that all residential units be installed with solar power generating equipment.
  - (4) Require the development to file a Planned Development Permit Amendment if any reduction to the approved 108,000 square feet is proposed in the future and that the new development proposal be required to have at least 50,000 square feet of total commercial/retail space, with the majority of the required square footage to Front North Capitol Avenue.
  - (5) Direct the City Manager to require a developer contribution of \$50,000 toward transportation enhancements, which are currently planned but unfunded and will serve the proposed development, including but not limited to the Northbound Capitol/McKee Light Rail Platform and Northbound bus stop along Capitol Avenue, to be paid to the City on or before the issuance of any building permits.

**11.2 Planned Development Conforming Rezoning and Planned Development Permit and Vesting Tentative Map for Real Property Located at 641 N. Capitol Ave. (Cont'd.)**

Resolution No. 78053, entitled: “A Resolution of the Council of the City of San José Adopting the 641 North Capitol Avenue Mixed-Use Project Mitigated Negative Declaration, for which an Initial Study was Prepared, all in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”; Resolution No. 78054, entitled: “A Resolution of the Council of the City of San José Approving a Vesting Tentative Map, Subject to Conditions, to Subdivide One Parcel into Six Parcels, then Resubdividing Three Parcels to Create up to 188 Residential Condominium Units and Allowing Commercial Use on the Remaining Three Parcels on a 10.6-Gross Acre Site, on the Southwest Corner of North Capitol Avenue and Gimelli Way (641 North Capitol Avenue)”; and Resolution No. 78055, entitled: “A Resolution of the Council of the City of San José Approving a Planned Development Permit, Subject to Conditions, to Allow Up to 188 Residential Units and a Minimum of 108,000 Square Feet of Commercial Space on an Approximately 10.6 Gross Acre Site, Located at the Southwest Corner of North Capitol Avenue and Gimelli Way (641 North Capitol Avenue)”, were adopted. Ordinance No. 29858, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 10.6 Gross Acres Situated on the Southwest Corner of North Capitol Avenue and Gimelli Way (641 North Capitol Avenue) from the RM Multi-Family Residence Zoning District to the CP(PD) Planned Development Zoning District”, was passed for publication. (10-1. Absent: Diep.)

- 11.3 (a) Consideration of an ordinance of the City of San José rezoning certain real property located on a 0.90 gross acre site at 2188 The Alameda from the A(PD) Planned Development Zoning District to the CP Commercial Pedestrian Zoning District (Allied Housing, Owner).**
- (b) Adopt a resolution approving a Conditional Use Permit, subject to conditions, to allow a 27-unit hotel supportive housing in an existing hotel.**
- CEQA: Exempt per CEQA Guidelines 15301(a) for Existing Facilities. Council District 6. Planning, Building and Code Enforcement Director recommended approval of the Conforming Rezoning and Conditional Use Permit, subject to conditions. (PBCE) C16-032 & CP16-015 – Council District 6**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Dev Davis, dated January 6, 2017, recommending support to the staff report. (2) City Council Staff Report for File No. C16-032 and CP16-015, dated December 19, 2016. (3) Proof of Publication of Notice of Public Hearing, executed on December 9, 2016, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Offering support to the use permit were Vivian Wan, Abode Services; Barbara and Devon Grover and Megan Calvard, PATH; Jack Sardegna, Lisa McMonagle, Megan Colvard and Robert Aguirre. Christine Pfent indicated that the residents have not had communication with Abode.

Mayor Sam Liccardo closed the public hearing.



### **11.3 Conforming Rezoning and Conditional Use Permit for the Real Property Located at 2188 The Alameda (Cont'd.)**

Director, Planning, Building and Code Enforcement Harry Freitas provided an introduction, and Project Manager, Sylvia Do and Director of Housing Jacky Morales-Ferrand and Senior Development Officer, Patrick Heisinger provided a report and responded to questions.

Mayor Sam Liccardo asked that Staff return to the Rules and Open Government Committee with a work load assessment concerning loosening the restrictions around hotel conversions to make them more feasible.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the memorandum from Mayor Sam Liccardo and Council Member Dev Davis, dated January 6, 2017, was approved, with recommendations as outlined in the Staff Report dated December 19, 2016, to approve the proposed Conforming Rezoning and Conditional Use Permit to allow a 27-unit hotel supportive housing in an existing hotel. Staff was directed to return to the Rules and Open Government Committee with a work load assessment concerning loosening the restrictions around hotel conversions to make them more feasible. Ordinance No. 29859, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.90 Gross Acre Situated on the Northeasterly Side of Portola Avenue and the Alameda (2188 The Alameda) From the A(PD) Planned Development Zoning District to the CP (Commercial Pedestrian Zoning District”, was passed for publication. Resolution No. 78056, entitled: “A Resolution of the Council of the City of San José Approving, Subject to Conditions, a Conditional Use Permit to Allow a 27-Unit Hotel Supportive Housing Use in an Existing Hotel on a 0.90 Gross Acre Site Located at the Northeasterly Corner of Portola Avenue and the Alameda (2188 The Alameda)”, was adopted. (10-1. Absent: Diep.)

- 11.4 (a) Adopt a resolution adopting the Addendum to the Almaden Ranch Retail Center Subsequent Environmental Impact Report, all in accordance with the California Environmental Quality Act, as amended.**
- (b) Consideration of an ordinance of the City of San José rezoning certain real property on a 43.5-gross acre site, located on the southeast corner of Almaden Expressway and Chynoweth Avenue at the Almaden Ranch Shopping Center to allow changes to the previously approved development standards under Planned Development Zoning File No. PDC14-001, to allow building height increase from 50 feet to 60 feet for future hotel, add a requirement that parking for hotel use shall be provided in accordance the Zoning Ordinance, and add that parking for uses described in Municipal Code Section 20.90.220(G) can be reduced by up to 20% (Almaden Ranch, LLC, owner).**

**CEQA: Addendum to the Almaden Ranch Retail Center Subsequent EIR (Resolution No. 76168). Planning, Building and Code Enforcement Director recommended approval. (PBCE) PDC16-049 – Council District 9**

Action: Deferred to January 24, 2017 per Orders of the Day.

**11.5 Conforming Rezoning and Conditional Use Permit for the Real Property Located at 278 North 2<sup>nd</sup> Street.**

- (a) Adopt a resolution adopting the Villas on the Park Project Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report, and the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report, all in accordance with the California Environmental Quality Act, as amended, and adopting a related mitigation monitoring and reporting program.**
- (b) Consideration of an ordinance rezoning certain real property located on a 0.35 gross acre site located at 278 North 2nd Street from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District (Mcmanis, James and Sara W., Owners).**
- (c) Adopt a resolution approving a Conditional Use Permit, subject to conditions, to allow the demolition of an existing building, the construction of a six story, 78-unit residential care facility, and the removal of six ordinance size trees.**

**CEQA: Addendum to the Downtown Strategy 2000 Final Program EIR (Resolution No. 72767), the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), and the Envision San José 2040 General Plan Supplemental EIR (Resolution No. 77617). Planning Commission recommends approval (6-0-1) (Commissioner Bit-Badal absent). (Planning, Building and Code Enforcement)**

**C16-020 & CP16-014 – Council District 3**

**(Re-noticed from 12/13/16 – Item 11.2)**

Documents Filed: (1) Joint memorandum from Mayor Sam Liccardo and Councilmember Raul Peralez, dated January 6, 2017, providing support to the Planning Commission recommendations. (2) Memorandum from Planning Commission Secretary, Harry Freitas, dated December 15, 2016, transmitting the Planning Commission recommendations. (3) Proof of Publication of Notice of Public Hearing, executed on December 16, 2016, submitted by the City Clerk.

Mayor Sam Liccardo opened the public hearing.

Public Comments: Applicant, Joel John Roberts and PATH staff, Amy Anderson and Megan Colvard, presented merits of the project. Offering support were Yadira Cruz, Ron Corre, Shannon Alloway, Frenchie Rogers, Aiko Yep, Maureen Damrel, Semu One Bear, Sonia Coellar, Charles Preston, Sara Doorley, Vivian Wan, Gabriela Gabrian, Robert Aguirre, Pamela Wright, Renita Fleming, Leticia C., Phil Mastrocola, Karen Gillette, Rick Holden, Moria Merriweather, Belinda Sanchez, Eileen Hunter, Charlie Bullock and Lisa McMohagle.

Mayor Sam Liccardo closed the public hearing.

Director, Planning, Building and Code Enforcement Harry Freitas provided an introduction, and Director of Housing Jacky Morales-Ferrand and Senior Development Officer, Patrick Heisinger provided a report and responded to questions.

#### **11.5 Conforming Rezoning and Conditional Use Permit for the Real Property Located at 278 North 2<sup>nd</sup> Street (Cont'd.)**

Action: Upon motion by Councilmember Raul Peralez, seconded by Vice Mayor Magdalena Carrasco and carried unanimously, the memorandum from Mayor Sam Liccardo and Council Member Raul Peralez, dated January 6, 2017, was approved, approving the recommendations as outlined in the Planning Commission memorandum to the City Council dated December 15, 2016, to adopt a resolution approving the Addendum in accordance with the California Environmental Quality Act (CEQA) and approve the proposed Rezoning and Conditional Use Permit for a residential service facility at 278 North 2<sup>nd</sup> Street. Resolution No. 78057, entitled: “A Resolution of the Council of the City of San José Adopting the Villas on the Park Project Addendum to the Downtown Strategy 2000 Final Program Environmental Impact Report, and the Envision San José 2040 General Plan Final Program Environmental Impact Report and Supplemental Environmental Impact Report, All in Accordance with the California Environmental Quality Act, as Amended, and Adopting a Related Mitigation Monitoring and Reporting Program”; and Resolution No. 78058, entitled: “A Resolution of the Council of the City of San José Approving, Subject to Conditions, a Conditional Use Permit to Allow the Demolition of an Existing Commercial Building, the Construction of a Six Story, 84-Unit Residential Service Facility, and the Removal of Six Ordinance Size Trees on a 0.25 Gross Acre Site, on the Easterly Side of North 2<sup>nd</sup> Street, Approximately 130 Feet South of East Julian Street (278 North 2<sup>nd</sup> Street)”, were adopted. Ordinance No. 29860, entitled “An Ordinance of the City of San José Rezoning Certain Real Property of Approximately 0.35 Gross Acre Situated on the Easterly Side of North 2<sup>nd</sup> Street, Approximately 130 Feet South of East Julian Street (278 North 2<sup>nd</sup> Street) from the CG Commercial General Zoning District to the DC Downtown Primary Commercial Zoning District”, was passed for publication. (10-1. Absent: Diep.)

#### **OPEN FORUM**

Robert Aguirre took pictures of the Mayor and each Council Member.

#### **ADJOURNMENT**

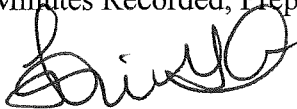
The Council of the City of San José was adjourned at 9:39 p.m.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
11397	Cul-de-sacs at George Blauer Place & Clara Smith Place	8	BWS	13/13	SFD

Minutes Recorded, Prepared and Respectfully Submitted by,



Toni J. Taber, CMC  
City Clerk

Smd/rmk/01-10-17 MIN